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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Tanya Mayhew and Tanveer Alibhai, individually on behalf of :
themselves and all others similarly situated, :

Case No. :

Plaintiffs, :

v. :

KAS DIRECT, LLC, :

**CLASS ACTION COMPLAINT
JURY TRIAL DEMANDED**

Defendant. :

Plaintiffs Tanya Mayhew and Tanveer Alibhai (hereinafter “Plaintiffs”), individually and on behalf of all others similarly situated throughout the country, by their attorneys, allege the following upon information and belief, except for those allegations pertaining to Plaintiffs, which are based on personal knowledge:

NATURE OF THE ACTION

1. This is a class action against Defendant KAS Direct, LLC d/b/a Babyganics (hereinafter “Defendant”), which develops, manufactures, markets, and sells a variety of baby care, sun protection, and cleaning products for babies which are sold under the brand name “Babyganics,” including:

- Babyganics 3x laundry detergent fragrance free,
- Babyganics 3x laundry detergent lavender,
- Babyganics alcohol-free foaming hand sanitizer fragrance free refill,
- Babyganics alcohol-free foaming hand sanitizer mandarin refill,
- Babyganics alcohol-free foaming hand sanitizer fragrance free,
- Babyganics alcohol-free foaming hand sanitizer mandarin,
- Babyganics alcohol-free hand sanitizing wipes mandarin,
- Babyganics all-purpose surface wipes fragrance free,
- Babyganics benzocaine free gel teething pods,
- Babyganics bubble bath chamomile verbena,
- Babyganics bubble bath fragrance free,
- Babyganics cold relief chest rub,
- Babyganics conditioning shampoo and body wash chamomile verbena,
- Babyganics conditioning shampoo and body wash fragrance free,

- Babyganics diaper rash cream,
- Babyganics dryer sheets lavender,
- Babyganics eczema care skin protectant cream,
- Babyganics face, hand, and baby wipes fragrance free,
- Babyganics floor cleaner concentrate fragrance free,
- Babyganics fluoride free toothpaste strawberry,
- Babyganics fluoride free toothpaste watermelon,
- Babyganics flushable wipes fragrance free,
- Babyganics foaming dish and bottle soap refill citrus,
- Babyganics foaming dish and bottle soap refill fragrance free,
- Babyganics foaming dish and bottle soap citrus,
- Babyganics foaming dish and bottle soap fragrance free,
- Babyganics foaming hand soap chamomile verbena,
- Babyganics foaming hand soap fragrance free,
- Babyganics hand and face wipes fragrance free,
- Babyganics natural insect repellent,
- Babyganics mineral-based sunscreen spray 50+ SPF,
- Babyganics mineral-based sunscreen 50+ SPF,
- Babyganics mineral-based sunscreen 50+ SPF single use tubes,
- Babyganics moisturizing daily lotion with sunscreen 15 SPF,
- Babyganics moisturizing daily lotion chamomile verbena,
- Babyganics moisturizing daily lotion fragrance free,
- Babyganics moisturizing therapy cream wash,

- Babyganics multi-surface cleaner citrus,
- Babyganics multi-surface cleaner fragrance free,
- Babyganics night time baby lotion orange blossom,
- Babyganics night time bubble bath orange blossom,
- Babyganics night time shampoo and body wash orange blossom,
- Babyganics organic lip and face balm fragrance free,
- Babyganics pure mineral sunscreen stick 50+ SPF,
- Babyganics pure mineral sunscreen 30 SPF,
- Babyganics shampoo and body wash chamomile verbena,
- Babyganics shampoo and body wash fragrance free,
- Babyganics soothing protective ointment,
- Babyganics stain and odor remover fragrance free,
- Babyganics stain eraser fragrance free,
- Babyganics toy and highchair cleaner fragrance free,
- Babyganics toy, table, and highchair wipes fragrance free,
- Babyganics tub and tile cleaner fragrance free,
- Babyganics ultra absorbent diapers newborn,
- Babyganics ultra absorbent diapers size 1,
- Babyganics ultra absorbent diapers size 2,
- Babyganics ultra absorbent diapers size 3,
- Babyganics ultra absorbent diapers size 4,
- Babyganics ultra absorbent diapers size 5,
- Babyganics ultra absorbent diapers size 6, and

- Babyganics vapor bubble bath

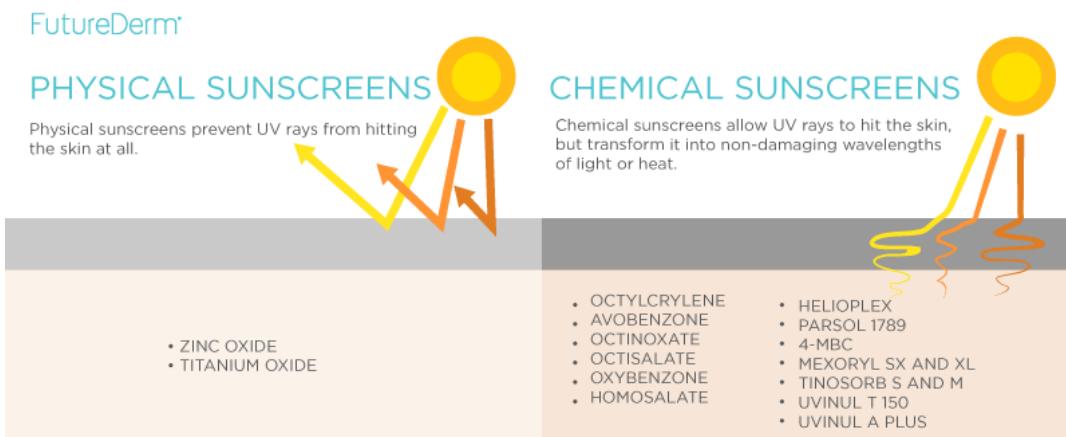
(hereinafter the “Products”).

2. This action seeks to remedy the unlawful, unfair, deceptive, and misleading business practices of Defendant with respect to the marketing and sales of the Products, which are sold throughout the States of New York and California and throughout the country.

3. Defendant chose the name “Babyganics,” a name clearly evocative of the word “organic,” in order to convey to consumers that the Products are organic.

4. Defendant’s marketing materials for the Products are also replete with statements that the Products are organic, and the front and back labels of some of the Products state that the Products contain organic ingredients.

5. In addition to marketing its entire product line with the trade name “Babyganics,” Defendant sells sunscreens that are labeled “mineral-based” (the “Sunscreens”). In fact, these Sunscreens are not mineral sunscreens, which use physical sunscreens such as Titanium Dioxide and Zinc Oxide that sit on top of the skin to deflect and scatter UV rays away from the skin. Instead, Defendant’s “mineral-based” sunscreens use a combination of physical sunscreens and chemical sunscreens, which penetrate the skin and absorb UV radiation.



A reasonable consumer does not deem products containing chemical ingredients such as Octinoxate and Octisalate to be “mineral-based.” The claim concerning this conduct is referred to herein as the Sunscreen Claim.

6. Plaintiffs and the Class reasonably believed Defendant’s false and misleading representations. Defendant knew or reasonably should have known that its representations regarding the Products were false, deceptive, misleading, and unlawful under California and New York law.

7. But for Defendant’s false and misleading identification of the Products as organic and/or mineral-based, Plaintiffs and the Class would not have purchased the Products or paid a premium price for the Products instead of purchasing truly organic or mineral-based products available from Defendant’s competitors.

8. Plaintiffs and Class Members paid a premium for the Products over comparable products that did not purport to be organic or mineral-based. Given that Plaintiffs and Class Members paid a premium for the Products based on Defendant’s misrepresentations that they are “Organic” or “mineral-based,” Plaintiffs and Class Members suffered an injury in the amount of the purchase price and/or the premium paid.

9. Defendant’s conduct violated and continues to violate New York General Business Law §§ 349 and 350 and California law, including, but not limited to, California Civil Code §§ 1750 *et seq.*, California Business & Professions Code §§ 17200 *et seq.*, and California Business & Professions Code §§ 17500 *et seq.*, and the common law. Defendant has been and continues to be unjustly enriched. Accordingly, Plaintiffs bring this action against Defendant on behalf of themselves and Class Members who purchased the Products during the applicable statute of limitations period (the “Class Period”).

JURISDICTION AND VENUE

10. Jurisdiction is proper pursuant to 28 U.S.C. § 1332(d)(2). Plaintiff Tanya Mayhew is a citizen of the State of New York and resides in Dutchess County. Plaintiff Tanveer Alibhai is a citizen of the State of California and resides in Oakland, California. Defendant is a corporation with its principal place of business in Westbury, New York and is organized and existing under the laws of the State of Delaware. Upon information and belief, the amount in controversy is in excess of \$5,000,000, exclusive of interests and costs.

11. This Court has personal jurisdiction over Defendant because Defendant conducts and transacts business in the State of New York, contracts to supply goods within the State of New York, and supplies goods within the State of New York. Furthermore, Defendant's principal place of business is in the State of New York.

12. Venue is proper because Plaintiff Mayhew and many Class Members reside in the Southern District of New York, and throughout the State of New York.

PARTIES

Plaintiff Mayhew

13. Plaintiff Mayhew is an individual consumer who, at all times material hereto, was a citizen of Dutchess County. During the Class Period Plaintiff Mayhew purchased the Defendant's mineral-based sunscreen, mineral-based sunscreen stick, and shampoo & body wash in approximately 2015 from her local Target in the State of New York.

14. Plaintiff Mayhew purchased the Products because she saw the labeling, advertising, the Defendant's website, and read the packaging, which represented that the Products are "Organic" and "Mineral-Based." Plaintiff Mayhew relied on Defendant's false, misleading, and deceptive representations that the Products are "Organic" and "Mineral-Based." Had Plaintiff

Mayhew known the truth—that the representations she relied upon in making her purchase were false, misleading, and deceptive—she would not have purchased the Products at a premium price.

Plaintiff Alibhai

15. Plaintiff Alibhai is a resident of Oakland, California. She purchased Defendant's mineral-based sunscreen in approximately 2012 from ToysRUs. She also purchased bulk packages of Defendant's bubble bath, foaming bottle & dish soap, and toy & highchair cleaner in approximately 2013 from ToysRUs.

16. Plaintiff Alibhai purchased the mineral-based sunscreen because she believed that it was organic and mineral-based as represented by Defendant. Plaintiff did not discover that the sunscreen was neither organic nor mineral-based until after she applied it to her daughter's skin, at which point her daughter suffered a rash and Plaintiff Alibhai checked the ingredients listed on the back label. Had Plaintiff Alibhai known the truth—that the representations she relied upon in purchasing the mineral-based sunscreen were false, misleading, and deceptive—she would not have purchased it.

17. Plaintiff Alibhai purchased the bubble bath, foaming bottle & dish soap, and toy & highchair cleaner because she believed they were organic. However, the bubble bath aggravated her daughter's eczema, and upon closer review of the ingredients lists, Plaintiff Alibhai discovered that none of the Babyganics products were organic. Plaintiff Alibhai stopped using the products. Had she known the truth—that the representations she relied upon in purchasing the Babyganics products were false, misleading, and deceptive—she would not have purchased them.

Defendant

18. Defendant is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Westbury, New York. Defendant manufactures, markets, advertises, and distributes the Products throughout the United States. Defendant created

and/or authorized the false, misleading, and deceptive advertisements, packaging, and labeling for the Products.

FACTUAL BACKGROUND

A. Defendant deceptively uses the trade name “Babyganics” to impart to consumers that its Products are organic.

19. Defendant applied to the United States Patent and Trademark Office (“USPTO”) in March 2006 for the mark “BABYGANICS” for “all-purpose cleaners comprised of all natural ingredients that can be used in households with babies and pets.” Included with its application was a specimen, which Defendant described as “[a] photograph of a spray bottle of Babyganics all natural and *organic* cleaner”:



20. The mark was registered on January 9, 2007, and in August 2012, the USPTO granted Defendant’s application to expand the “Babyganics” mark to include a much wider range

of products such a “baby wipes; diaper creams; shampoo and body wash preparations; bubble bath preparations; lip and face balms; skin moisturizing lotions; saline nasal sprays; toothpaste; teething gels; insect sprays; [and] non-medicated skin care preparations, namely, skin ointments to promote healing.” Today, the mark appears on Defendant’s products, on its website, and in marketing materials in the following form:



21. The Products consist of a line of baby care and household cleaning products. The name “Babyganics” is a portmanteau of the words “baby” and “organics.” Defendant knowingly and intentionally uses the “Babyganics” mark to convey to consumers that the Products are, in fact, organic. Although the Products contain small quantities of organic ingredients, Defendant knowingly and intentionally selected a brand name that looks like and sounds like the word “organics” in order to exploit the growing consumer demand for organic products. To ensure that consumers make the association between “Babyganics” and “organics,” Defendant uses packaging which is predominantly white and green and highlights graphics of leaves, flowers, and other plants. Each product is emblazoned with the name “Babyganics” on the front of the label of the Products in bold type.

22. Consumers have become increasingly concerned about the effects of synthetic and chemical ingredients in food, cleaning products, bath and beauty products, and everyday household products. Companies such as the Defendant have capitalized on consumers’ concerns and their

desire for purportedly “organic products.” Indeed, consumers are willing to pay, and have paid, a premium for products branded “organic” over products that contain synthetic ingredients. Reasonable consumers, including Plaintiffs and Class Members, value organic products for important reasons, including the belief that they are safer and healthier than alternative products that are not represented as organic.

23. Defendant’s ongoing practice of advertising, marketing, labeling, selling, and representing the Products as organic—when in fact, the Products contain minimal organic ingredients—is likely to deceive ordinary consumers of the Products and has in fact deceived Plaintiffs.

24. Plaintiffs reasonably understood the labeling of the Products to mean what they say or imply to a reasonable consumer—that the Products are organic. Based on the label claims that the Products are organic, Plaintiffs believed that the Products are entirely or predominantly made with organic ingredients. In reliance on Defendant’s claims that the Products are organic, Plaintiffs were willing to pay more for the Products than similar products that do not claim to be organic and in fact did pay a premium for the Products.

25. As depicted below, the Products’ packaging leads consumers to believe the Products are organic. Despite these representations, the Products contain ingredients that are not organic. For example, Defendant’s mineral-based sunscreens contain several non-organic and synthetic inactive ingredients that do not appear on the list of synthetic ingredients approved for use in products labeled “organic”:

- a. Arachidyl Glucoside – a synthetic surfactant;
- b. Butylene Glycol - a synthetic humectant (a substance that retains moisture);
- c. Ethylhexylglycerin - a synthetic skin conditioning agent and weak preservative;
- d. Glycerin – produce by hydrolysis of fats and oils;

- e. Hydroxyethyl Acrylate/Sodium Acryloyldimethyltaurate Copolymer – synthetic emulsion stabilizer;
- f. Polyhydroxystearic Acid – a synthetic suspending agent; and
- g. Polysorbate 60 – a synthetic surfactant and emulsifier with contamination hazards from carcinogens ethylene oxide and 1,4-dioxane.

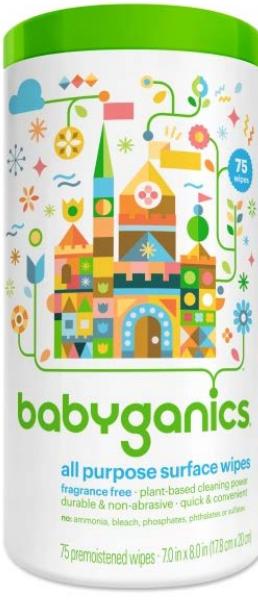
26. The aforementioned ingredients are not organic.

27. The other Products also contain ingredients that are not organic:

Name of Product	Listed Ingredients	Product Packaging
Babyganics 3X laundry detergent fragrance free	<ul style="list-style-type: none"> • water • lauryl /myristyl glucoside • potassium cocoate • sodium citrate dihydrate • propylene glycol • lauramine oxide • oleic acid • protease and amylase • citric acid • sodium gluconate • sodium tetraborate • calcium chloride • sodium hydroxide • methylisothiazolinone 	
Babyganics 3X laundry detergent lavender	<ul style="list-style-type: none"> • water • lauryl/myristyl glucoside • potassium cocoate • sodium citrate dihydrate • propylene glycol • lauramine oxide • oleic acid • protease and amylase • citric acid • sodium gluconate • sodium tetraborate • calcium chloride • sodium hydroxide 	

	<ul style="list-style-type: none"> • triethyl citrate • anthemis nobilis (chamomile) flower oil • lavandula angustifolia (lavender) oil • citrus aurantium bergamia (bergamot) fruit extract • caprylyl/capryl glucoside • methylisothiazolinone 	
Babyganics alcohol-free foaming hand sanitizer refill fragrance free	<ul style="list-style-type: none"> • benzalkonium chloride • water • cetrimonium chloride • laurtrimonium chloride • dihydroxyethyl cocamine oxide • glycereth-17 cocoate • citric acid 	
Babyganics alcohol-free foaming hand sanitizer refill mandarin	<ul style="list-style-type: none"> • benzalkonium chloride • water • cetrimonium chloride • laurtrimonium chloride • dihydroxyethyl cocamine oxide • glycereth-17 cocoate • citric acid • medium chain triglycerides • triethyl citrate • citrue reticulata (mandarin orange) peel oil • tocopherol • citrus aurantium dulcis (orange) peel oil • citrus grandis (grapefruit) peel oil 	

Babyganics alcohol-free foaming hand sanitizer fragrance free	<ul style="list-style-type: none"> • benzalkonium chloride • water • cetrimonium chloride • laurtrimonium chloride • dihydroxyethyl cocamine oxide • glycereth-17 cocoate • citric acid 	
Babyganics alcohol-free foaming hand sanitizer mandarin	<ul style="list-style-type: none"> • benzalkonium chloride • water • cetrimonium chloride • laurtrimonium chloride • dihydroxyethyl cocamine oxide • glycereth-17 cocoate • citric acid • medium chain triglycerides • triethyl citrate • citrue reticulate (mandarin orange) peel oil • tocopherol • citrus aurantium dulcis (orange) peel oil • citrus grandis (grapefruit) peel oil 	

Babyganics alcohol-free hand sanitizing wipes mandarin	<ul style="list-style-type: none"> • benzalkonium chloride • water • glycerin • aloe barbadensis leaf juice • polysorbate 20 • sodium benzoate • cocamidopropyl pg-dimonium chloride phosphate • potassium sorbate • disodium cocoamphodiacetate • citric acid • tetrasodium glutamate diacetate • tocopheryl acetate • medium chain triglycerides • triethyl citrate • citrus reticulata (mandarin orange) peel oil • tocopherol • citrus aurantium dulcis (orange) peel oil • citrus grandis (grapefruit) peel oil 	
Babyganics all purpose surface wipes fragrance free	<ul style="list-style-type: none"> • purified water • glycerin • decyl glucoside • malic acid • potassium sorbate • gluconolactone • sodium benzoate 	

Babyganics benzocaine free gel teething pods	<ul style="list-style-type: none"> • cocos nucifera • clove oil • stevia 	
Babyganics bubble bath chamomile verbena	<ul style="list-style-type: none"> • water • sodium lauroyl methyl isethionate • disodium cocoamphodiacetate • coco-glucoside • lauryl glucoside • capryl/capramidopropyl betaine • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • organic aloe barbadensis leaf juice • organic calendula officinalis flower extract • organic olea europaea (olive) leaf extract • organic glycerin • citric acid • trisodium ethylenediamine disuccinate • phenoxyethanol • ethylhexylglycerin • sodium benzoate • aldehyde c-14 natural • allyl caproate natural • balsam copaiba 	

	<ul style="list-style-type: none"> • cedarwood virginiana oil • chamomile roman • cis 3 hexenyl acetate natural • coumarin natural cucumber oil natural • davana oil • eucalyptus oil • galbanum oil • geranium eqyptian • hexyl acetate (c-6) natural • ionone beta natural • lemon oil washed • lime oil • methyl cinnamate • caprylic/capric triglyceride • palmarosa oil • rose otto bulgarian • vanillin 	
Babyganics bubble bath fragrance free	<ul style="list-style-type: none"> • water • sodium lauroyl methyl isethionate • disodium cocoamphodiacetate • coco-glucoside • lauryl glucoside • capryl/capramidopropyl betaine • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • organic aloe barbadensis leaf juice • organic calendula officinalis flower extract • organic olea europaea (olive) leaf extract • organic glycerin • citric acid • trisodium ethylenediamine disuccinate • phenoxyethanol 	

	<ul style="list-style-type: none"> • ethylhexylglycerin • sodium benzoate 	
Babyganics cold relief chest rub	<ul style="list-style-type: none"> • menthol 2.6% • organic beeswax • cedrus atlantica bark oil • eucalyptus globulus leaf oil • glycine soja (soybean) oil • organic helianthus annuus (snowflower) seed oil • organic lavandula angustifolia (lavender) oil • organic olea europaea (olive) fruit oil • organic ricinus communis (castor) seed oil • Rosmarinus officinalis (rosemary) leaf extract • silica • tocopherol 	
Babyganics conditioning shampoo and bodywash chamomile verbena	<ul style="list-style-type: none"> • water • sodium lauroyl methyl isethionate • disodium cocoamphodiacetate • propanediol • sodium methyl cocoyl taurate • sodium lauryl glucose carboxylate • guar hydroxypropyltrimonium chloride • glycerin • lauryl glucoside • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • organic aloe barbadensis leaf juice • organic chamomilla recutita (matricaria) flower extract • organic cucumis sativus (cucumber) fruit extract 	

	<ul style="list-style-type: none">• organic persea gratissima (avocado) fruit extract• tocopherol• phenoxyethanol• sodium chloride• citric acid• trisodium ethylenediamine disuccinate• sodium benzoate• dehydroacetic acid• ethylhexylglycerin• sorbic acid• aldehyde c-14 natural• allyl caproate natural• balsam copalba• cedarwood virginiana oil• chamomile roman• cis 3 hexenyl acetate natural• coumarin natural cucumber oil natural• davana oil• eucalyptus oil• galbanum oil• geranium eqyptian• hexyl acetate (c-6) natural• ionone beta natural• lemon oil washed• lime oil• methyl cinnamate• caprylic/capric triglyceride• palmarosa oil• rose otto Bulgarian• vanillin	
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Babyganics conditioning shampoo and bodywash fragrance free	<ul style="list-style-type: none"> • water • sodium lauroyl methyl isethionate • disodium cocoamphodiacetate • propanediol • sodium methyl cocoyl taurate • sodium lauryl glucose carboxylate • guar hydroxypropyltrimonium chloride • glycerin • lauryl glucoside • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • organic aloe barbadensis leaf juice • organic chamomilla recutita (matricaria) flower extract • organic cucumis sativus (cucumber) fruit extract • organic persea gratissima (avocado) fruit extract • tocopherol • phenoxyethanol • sodium chloride • citric acid • trisodium ethylenediamine disuccinate • sodium benzoate • dehydroacetic acid • ethylhexylglycerin • sorbic acid 	
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Babyganics diaper rash cream	<ul style="list-style-type: none"> • zinc oxide • water • organic butyrospermum parkii (shea) butter • butyrospermum parkii (shea) butter • organic theobroma cacao (cocoa) seed butter • theobroma cacao (cocoa) seed butter • organic prunus amygdalus dulcis (sweet almond) oil • glycol stearate • organic simmondsia chinensis (jojoba) seed oil • organic glycerin • polyglyceryl – 3 polyricinoleate • tocopherol • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • organic calendula officinalis flower extract • organic aloe barbadensis leaf juice • sorbitan sesquioleate • cetyl ricinoleate • glyceryl caprate • beeswax • sodium polyacryloyldimethyl taurate • hydroxyethylcellulose • hydrogenated polydecene • trideceth-10 • magnesium stearate • aluminum tristearate • sodium benzoate • gluconolactone 	
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Babyganics dryer sheets lavender	<ul style="list-style-type: none"> • paper • dihydrogenated hydroxyethylmonium (plant-based softening agent/antistatic) palmoylethyl methosulfate • Natural Fragrance: caprylic/capric triglyceride (plant-based emulsifier) • citrus aurantium bergamia (bergamot) fruit oil • anthemis nobilis (chamomile) flower oil • lavendula angustifolia (lavender) oil • lavandula hybrida (lavandin) oil 	
Babyganics eczema care skin protectant cream	<ul style="list-style-type: none"> • colloidal oatmeal 1% • water • organic butyrospermum parkii (shea) butter • cetearyl alcohol • cetyl alcohol • isopropyl palmitate • organic glycerin • glyceryl stearate • organic theobroma cacao (cocoa) seed butter • hydrolyzed oats • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • cetearyl glucoside • tocopherol • glyceryl dilaurate • caprylyl glycol • xanthan gum • sodium phytate • ethylhexylglycerin • citric acid • potassium sorbate 	

	<ul style="list-style-type: none"> • phenoxyethanol 	
Babyganics face, hand and baby wipes fragrance free	<ul style="list-style-type: none"> • water • chamomilla recutita flower extract • vegetable oil • glycerin • lauryl glucoside • polyglyceryl-2-dipolyhydroxystearate • glyceryl oleate • dicaprylyl carbonate • sodium benzoate • citric acid • potassium sorbate • solanum lycopersicum (tomato) seed oil • helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil 	
Babyganics floor cleaner concentrate fragrance free	<ul style="list-style-type: none"> • water • decyl glucoside • sodium lauryl glucose carboxylate • lauryl glucoside • lauramine oxide • methylglycinediacyclic acid • potassium cocoate • sodium citrate • phenoxyethanol • caprylyl glycol 	

<p>Babyganics fluoride free toothpaste strawberry</p>	<ul style="list-style-type: none"> purified water carboxymethyl cellulose xylitol sodium citrate citric acid potassium sorbate stevia flavor 	
<p>Babyganics fluoride free toothpaste watermelon</p>	<ul style="list-style-type: none"> purified water carboxymethyl cellulose xylitol sodium citrate citric acid potassium sorbate stevia flavor 	

Babyganics flushable wipes fragrance free	<ul style="list-style-type: none"> • water • aloe barbadensis leaf juice • glycerin • polysorbate 20 • sodium benzoate • disodium cocoamphodiacetate • potassium sorbate • tocopheryl acetate (vitamin e acetate) • sodium citrate • citric acid 	
Babyganics foaming dish and bottle soap refill citrus	<ul style="list-style-type: none"> • water • cocamidopropyl hydroxysultaine • lauramine oxide • decyl glucoside • sodium lauroyl sarcosinate • glycerin • methylisothiazolinone • natural fragrance: medium chain triglycerides • triethyl citrate • citrus reticulata (mandarin orange) peel oil • tocopherol • citrus aurantium dulcis (orange) peel oil • citrus grandis (grapefruit) peel oil 	

Babyganics foaming dish and bottle soap refill fragrance free	<ul style="list-style-type: none"> • water • cocamidopropyl hydroxysultaine • lauramine oxide • decyl glucoside • sodium lauroyl sarcosinate • glycerin • methylisothiazolinone 	
Babyganics foaming dish and bottle soap citrus	<ul style="list-style-type: none"> • water • cocamidopropyl hydroxysultaine • lauramine oxide • decyl glucoside • sodium lauroyl sarcosinate • glycerin • methylisothiazolinone • natural fragrance: medium chain triglycerides • triethyl citrate • citrus reticulata (mandarin orange) peel oil • tocopherol • citrus aurantium dulcis (orange) peel oil • citrus grandis (grapefruit) peel oil 	

Babyganics foaming dish and bottle soap fragrance free	<ul style="list-style-type: none"> • Water • cocamidopropyl hydroxysultaine • lauramine oxide • decyl glucoside • sodium lauroyl sarcosinate • glycerin • methylisothiazolinone 	
Babyganics foaming hand soap chamomile verbena	<ul style="list-style-type: none"> • water • organic potassium oleate • organic glycerin • organic potassium cocoate • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • xanthan gum • potassium citrate • citric acid • aldehyde c-14 natural • allyl caproate natural • balsam copalba • cedarwood virginiana oil • chamomile roman • cis 3 hexenyl acetate natural • coumarin natural cucumber oil natural • davana oil • eucalyptus oil • galbanum oil 	

	<ul style="list-style-type: none"> • geranium eqyptian • hexyl acetate (c-6) natural • ionone beta natural • lemon oil washed • lime oil • methyl cinnamate • caprylic/capric triglyceride • palmarosa oil • rose otto Bulgarian • vanillin 	
Babyganics foaming hand soap fragrance free	<ul style="list-style-type: none"> • water • organic potassium oleate • organic glycerin • organic potassium cocoate • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • xanthan gum • potassium citrate • citric acid 	

Babyganics hand and face wipes fragrance free	<ul style="list-style-type: none"> • water • chamomilla recutita flower extract • vegetable oil • glycerin • lauryl glucoside • polyglyceryl-2-dipolyhydroxystearate • glyceryl oleate • dicaprylyl carbonate • sodium benzoate • citric acid • potassium sorbate • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil 	
Babyganics natural insect repellent	<ul style="list-style-type: none"> • organic soybean oil • rosemary oil • citronella oil • geranium oil • cedarwood oil • peppermint oil • lemongrass oil 	

Babyganics mineral-based sunscreen spray 50+SPF	<ul style="list-style-type: none"> • zinc oxide 11.2% • octinoxate 7.5% • octisalate 5.0% • water • caprylic/capric triglyceride • glycerin • aloe barbadensis leaf juice • VP/hexadecene copolymer • glycetyl stearate • hexaglyceryl polyricinoleate • polysorbate 80 • phenethyl alcohol • glycetyl caprylate • sodium magnesium silicate • xanthan gum • hydroxyethyl acrylate/sodium acryloyldimethyltaurate copolymer • citric acid • squalane • solanum lycopersicum (tomato) seed oil • helianthus annuus (sunflower) seed oil • lecithin • polysorbate 60 • vaccinium macrocarpon (cranberry) seed oil • rubus idaeus (red raspberry) seed oil • nigella sativa (black cumin) seed oil • sorbitan isostearate 	
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Babyganics mineral-based sunscreen 50+SPF	<ul style="list-style-type: none"> • octisalate 5.0% • titanium dioxide 3.0% • zinc oxide 5.0% • water • butyloctyl salicylate • neopentyl glycol diethylhexanoate • caprylic/capric triglyceride • stearyl/octyldodecyl citrate crosspolymer • polyglyceryl-2 stearate • organic simmondsia chinensis (jojoba) seed oil • hydrogenated dimer dilinoleyl/dimethylcarbonate copolymer • glyceryl stearate • cetyl alcohol • organic cocos nucifera (coconut) oil • organic glycerin • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • organic butyrospermum parkii (shea) butter • jojoba esters • stearyl alcohol • arachidyl glucoside • behenyl alcohol • polyhydroxystearic acid • xanthan gum • silica • alumina • ethylhexylglycerin • trisodium ethylenediamine disuccinate • phenoxyethanol 	 <p>A white tube of Babyganics mineral-based sunscreen SPF 50+. The tube features a colorful illustration of a smiling sun with rays and a green base. Text on the tube includes '50 SPF', 'mineral-based sunscreen', 'broad spectrum SPF 50+', 'UV-A + UV-B protection', 'water resistant (80 minutes)', 'non-allergenic', 'no PABA, parabens, sulfates, harsh fragrances', and '100% Natural Seed Oil Blend'. The size is listed as '6 FL OZ (177mL)'.</p>
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Babyganics mineral-based sunscreen 50+ SPF single use tubes	<ul style="list-style-type: none"> • octisalate 5.0% • titanium dioxide 3.0% • zinc oxide 6.0% • water • butyloctyl salicylate • neopentyl glycol diethylhexanoate • caprylic/capric triglyceride • stearyl/octyldodecyl citrate crosspolymer • polyglyceryl-2 stearate • simmondsia chinensis (jojoba) seed oil • hydrogenated dimer dilinoleyl/dimethylcarbonate copolymer • glyceryl stearate • cetyl alcohol • cocos nucifera (coconut) oil • glycerin • solanum lycopersicum (tomato) seed oil • helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • butyrospermum parkii (shea) butter • jojoba esters • stearyl alcohol • arachidyl alcohol • arachidyl glucoside • behenyl alcohol • polyhydroxystearic acid • xanthan gum • silica • alumina • ethylhexylglycerin • trisodium ethylenediamine disuccinate • phenoxyethanol 	
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Babyganics moisturizing daily lotion with sunscreen 15 SPF	<ul style="list-style-type: none"> • titanium dioxide 2.0% • zinc oxide 3.0% • water • organic cocos nucifera (coconut) oil • butyloctyl salicylate • stearyl/octyldodecyl citrate crosspolymer • organic glycerin • polyglyceryl-2 stearate • caprylic/capric triglyceride • glyceryl stearate • cetyl alcohol • stearyl alcohol • solanum lycopersicum (tomato) seed oil • helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • organic simmondsia chinensis (jojoba) seed oil • organic butyrospermum parkii (shea) butter • organic theobroma cacao (cocoa) seed butter • jojoba esters • xanthan gum • silica • alumina • ethylhexylglycerin • trisodium ethylenediamine disuccinate • phenoxyethanol 	
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Babyganics moisturizing daily lotion chamomile verbena	<ul style="list-style-type: none"> • water • organic Theobroma cacao (cocoa) seed butter • cetyl alcohol • squalene • decyl oleate • organic butyrospermum parkii (shea) butter • propanediol • organic glycerin • organic persea gratissima (avocado) oil • organic olea europaea (olive) fruit oil • organic canola oil • tocopherol • organic aloe barbadensis leaf juice • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • cetearyl alcohol • ceteareth-20 • stearic acid • organic beeswax • carbomer • sodium hydroxide • caprylyl glycol • trisodium ethylenediamine disuccinate • sorbic acid • phenoxyethanol • aldehyde c-14 natural • allyl caproate natural • balsam copalba • cederwood virginiana oil • chamomile roman • cis 3 hexenyl acetate natural 	
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	<ul style="list-style-type: none"> • coumarin natural cucumber oil natural • davana oil • eucalyptus oil • galbanium oil • geranium eqyptian • hexyl acetate (c-6) natural • ionone beta natural • lemon oil washed • lime oil • methyl cinnamate • caprylic/capric triglyceride • palmarosa oil • rose otto Bulgarian • vanillin 	
Babyganics moisturizing daily lotion fragrance free	<ul style="list-style-type: none"> • water • organic Theobroma cacao (cocoa) seed butter • cetyl alcohol • squalene • decyl oleate • organic butyrospermum parkii (shea) butter • propanediol • organic glycerin • organic persea gratissima (avocado) oil • organic olea europaea (olive) fruit oil • organic canola oil • tocopherol • organic aloe barbadensis leaf juice • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • cetearyl alcohol • ceteareth-20 	

	<ul style="list-style-type: none"> • stearic acid • organic beeswax • carbomer • sodium hydroxide • caprylyl glycol • trisodium ethylenediamine disuccinate • sorbic acid • phenoxyethanol 	
Babyganics moisturizing therapy cream wash	<ul style="list-style-type: none"> • water • colloidal oatmeal • cocamidopropyl hydroxysultaine • sodium cocoyl isethionate • organic glycerin • sodium lauroyl methyl isethionate • glycol distearate • cocamidopropylamine oxide • hydrolyzed oats • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • organic butyrospermum parkii (shea) butter • organic aloe barbadensis leaf juice • organic chamomilla recutita (matricaria) extract • tocopherol • castoryl maleate • xanthan gum • hydroxypropyl methylcellulose • caprylyl glycol • ethylhexylglycerin • citric acid • sodium hydroxide • trisodium hydroxide 	

	<ul style="list-style-type: none"> • trisodium ethylenediamine disuccinate • potassium sorbate • phenoxyethanol 	
Babyganics multi-surface cleaner citrus	<ul style="list-style-type: none"> • water • decyl glucoside • soybean oil • methyl esters • trisodium ethylenediamine disuccinate • natural fragrance: medium chain triglycerides • triethyl citrate • citrus reticulata (mandarin orange) peel oil • tocopherol • citrus aurantium dulcis (orange) peel oil • citrus grandis (grapefruit) peel oil • methylisothiazolinone 	
Babyganics multi-surface cleaner fragrance free	<ul style="list-style-type: none"> • water • decyl glucoside • soybean oil • methyl esters • trisodium ethylenediamine disuccinate • methylisothiazolinone 	

Babyganics night time baby lotion orange blossom	<ul style="list-style-type: none"> • water • organic Theobroma cacao (cocoa) seed butter • cetyl alcohol • squalene • decyl oleate • organic butyrospermum parkii (shea) butter • propanediol • organic glycerin • organic persea gratissima (avocado) oil • organic olea europaea (olive) fruit oil • organic canola oil • tocopherol • organic aloe barbadensis leaf juice • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • cetearyl alcohol • ceteareth-20 • stearic acid • organic beeswax • carbomer • sodium hydroxide • caprylyl glycol • trisodium ethylenediamine disuccinate • sorbic acid • phenoxyethanol • bergamot terpenes • davana oil • grapefruit terpenes • mandarin petitgrain • caprylic/capric tryglyceride • orange oil florida 	
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	<ul style="list-style-type: none"> • orange terpenes • peru balsam oil • petitgrain oil • tangerine oil • vanillin natural 	
Babyganics night time bubble bath orange blossom	<ul style="list-style-type: none"> • water • sodium lauryl methyl isethionate • disodium cocoamphodiacetate • coco-glucoside • lauryl glucoside • capryl/capramidopropyl betaine • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • organic aloe barbadensis leaf juice • organic calendula officinalis flower extract • organic olea europaea (olive) leaf extract • organic glycerin • citric acid • trisodium ethylenediamine disuccinate • phenoxyethanol • ethylhexylglycerin • sodium benzoate • bergamot terpenes • davana oil • grapefruit terpenes • mandarin petitgrain • caprylic/capric tryglyceride • orange oil florida • orange terpenes • peru balsam oil • petitgrain oil • tangerine oil 	

	<ul style="list-style-type: none"> • vanillin natural 	
Babyganics night time shampoo and body wash orange blossom	<ul style="list-style-type: none"> • water • sodium lauroyl methyl isethionate • caprylyl/capryl glucoside • propanediol • acrylates copolymer • sodium lauroyl oat amino acids • glycerin • ethylhexylglycerin • citric acid • trisodium ethylenediamine disuccinate • dehydroacetic acid • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • phenoxyethanol • sodium hydroxide • sodium phytate • organic aloe barbadensis leaf juice • organic cucumis sativus (cucumber) fruit extract • organic chamomilla recutita (matricaria) flower extract • organic persea gratissima (avocado) fruit extract • bergamot terpenes • davana oil • grapefruit terpenes • mandarin petitgrain • caprylic/capric triglyceride • orange oil florida • orange terpenes • peru balsam oil • petitgrain oil 	

	<ul style="list-style-type: none"> • tangerine oil • vanillin natural 	
Babyganics organic lip and face balm fragrance free	<ul style="list-style-type: none"> • organic helianthus annuus (sunflower) seed oil • organic beeswax • organic cocos nucifera (coconut) oil • organic ricinus communis (castor) oil • organic butyrospermum parkii (shea) butter • organic calendula officinalis flower oil • tocopherol • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil 	
Babyganics pure mineral sunscreen stick 50+ SPF	<ul style="list-style-type: none"> • titanium dioxide 7.9% • zinc oxide 6% • c12-15 alkyl benzoate • caprylic/capric triglyceride • organic beeswax • organic copernicia cerifera (carnauba) wax • neopentyl glycol diethylhexanoate • tribehenin • euphorbia cerifera (candelilla) wax • ppg-3 benzyl ether myristate • hydrogenated dimer dilinoleyl/dimethylcarbonate copolymer • helianthus annuus (sunflower) seed wax • myristyl myristate • stearyl/octadodecyl citrate crosspolymer • organic simmondsia chinensis (jojoba) seed oil • polyglycerol-10 pentaoleate • jojoba esters • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil 	

	<ul style="list-style-type: none"> • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • polyhydroxystearic acid • caprylyl glycol • ethylhexylglycerin • silica • alumina 	
Babyganics pure mineral sunscreen 30 SPF	<ul style="list-style-type: none"> • titanium dioxide 3.0\$ • zinc oxide 3.0% • water • butyloctyl salicylate • cetearyl olivate • organic cocos nucifera (coconut) oil • sorbitan olivate • caprylic/capric triglyceride • organic carthamus tinctorius (safflower) seed oil • cetyl alcohol • stearyl/octadodecyl citrate crosspolymer • organic glycerin • hydrogenated dimer dilinoleyl/dimethylcarbonate copolymer • ozokerite • organic simmondsia chinensis (jojoba) seed oil • organic butyrospermum parkii (shea) butter • organic theobroma cacao (cocoa) seed butter • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil 	

	<ul style="list-style-type: none"> • jojoba esters • squalene • glyceryl caprylate • arachidyl alcohol • behenyl alcohol • arachidyl glucoside • sucrose stearate • stearic acid • polyglyceryl-2 caprate • xanthan gum • polyhydroxystearic acid • silica • alumina • trisodium ethylenediamine disuccinate • ethylhexylglycerin • phenoxyethanol 	
Babyganics shampoo and body wash chamomile verbena	<ul style="list-style-type: none"> • water • sodium lauroyl methyl isethionate • caprylyl/capryl glucoside • propanediol • acrylates copolymer • sodium lauroyl oat amino acids • glycerin • ethylhexylglycerin • citric acid • trisodium ethylenediamine disuccinate • dehydroacetic acid • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • phenoxyethanol • sodium hydroxide • sodium phytate • organic aloe barbadensis leaf juice 	

	<ul style="list-style-type: none">• organic cucumis sativus (cucumber) fruit extract• organic chamomilla recutita (matricaria) flower extract• organic persea gratissima (avocado) fruit extract• aldehyde c-14 natural• allyl caproate natural• balsam copaiba• cedarwood virginiana oil• chamomile roman• cis 3 hexenyl acetate natural• coumarin natural cucumber oil natural• davana oil• eucalyptus oil• galbanum oil• geranium eqyptian• hexyl acetate (c-6) natural• ionone beta natural• lemon oil washed• lime oil• methyl cinnamate• caprylic/capric triglyceride• palmarosa oil• rose otto bulgarian• vanillin	
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Babyganics shampoo and body wash fragrance free	<ul style="list-style-type: none"> • water • sodium lauroyl methyl isethionate • caprylyl/capryl glucoside • propanediol • acrylates copolymer • sodium lauroyl oat amino acids • glycerin • ethylhexylglycerin • citric acid • trisodium ethylenediamine disuccinate • dehydroacetic acid • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • phenoxyethanol • sodium hydroxide • sodium phytate • organic aloe barbadensis leaf juice • organic cucumis sativus (cucumber) fruit extract • organic chamomilla recutita (matricaria) flower extract • organic persea gratissima (avocado) fruit extract 	
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Babyganics soothing protective ointment	<ul style="list-style-type: none"> • ricinus communis (castor) seed oil • hydrogenated castor oil • organic beeswax • organic cocos nucifera (coconut) oil • lanolin • tocopherol • organic calendula officinalis flower extract • organic simmondsia chinensis (jojoba) seed oil • solanum lycopersicum (tomato) seed oil • organic helianthus annuus (sunflower) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • organic glycine soja (soybean) oil 	
Babyganics stain and odor remover fragrance free	<ul style="list-style-type: none"> • deionized water • sodium laurylglucosides hydroxypropylsulfonate 1 • lauryl dimethylamine oxide • sodium gluconate • sodium citrate dehydrate • lauryl glucoside • caprylyl/myristyl glucoside • propylene glycol • methylisothiazolinone 	

Babyganics stain eraser fragrance free	<ul style="list-style-type: none"> • water • decyl glucoside • methylglycinediacetic acid • potassium cocoate • sodium gluconate • sodium citrate • phenoxyethanol • caprylyl glycol 	
Babyganics toy and highchair cleaner fragrance free	<ul style="list-style-type: none"> • water • decyl glucoside • trisodium ethylenediamine disuccinate • methylisothiazolinone 	

Babyganics toy, table and highchair wipes fragrance free	<ul style="list-style-type: none"> water caprylyl/myristyl glucoside tetrasodium glutamate diacetate magnesium chloride magnesium nitrate methyl chloro isothiazolinone methyl isothiazolinone 	
Babyganics tub and tile cleaner fragrance free	<ul style="list-style-type: none"> water lactic acid cocamidopropyl betaine sodium hydroxide decyl glucoside trisodium ethylenediamine disuccinate ethylhydroxyethyl cellulose methylisothiazolinone 	
Babyganics ultra absorbent diapers size newborn		

Babyganics ultra absorbent diapers size 1		
Babyganics ultra absorbent diapers size 2		
Babyganics ultra absorbent diapers size 3		
Babyganics ultra absorbent diapers size 4		

Babyganics ultra absorbent diapers size 5		
Babyganics ultra absorbent diapers size 6		

Babyganics vapor bubble bath	<ul style="list-style-type: none"> • water • sodium lauroyl methyl isethionate • disodium cocoamphodiacetate • coco-glucoside • lauryl glucoside • capryl/capramidopropyl betaine • solanum lycopersicum (tomato) seed oil • vaccinium macrocarpon (cranberry) seed oil • organic nigella sativa (black cumin) seed oil • rubus idaeus (red raspberry) seed oil • organic aloe barbadensis leaf juice • organic calendula officinalis flower extract • organic olea europaea (olive) leaf extract • organic glycerin • citric acid • trisodium ethylenediamine disuccinate • phenoxyethanol • ethylhexylglycerin • sodium benzoate • camphor • cedarwood virginiana oil • citronellol natural • clary sage oil • eucalyptol natural • eucalyptus oil • laevo linalool natural • lavandin • lime oil • menthol crystals • pine (fir) needle siberian • rosemary • terpineol alpha natural • thyme oil • vanillin 	
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28. Defendant's scheme to exploit consumer demand for organic products by falsely advertising its Products as organic has been extraordinarily successful. In 2014, it was reported that Defendant experienced 277 percent sales growth over a 3-year period, and they were named to the Inc. 5000 list of fastest growing private companies. On July 1, 2016, SC Johnson announced that it was acquiring the brand.

29. The majority of the Products are intended to be rubbed, poured, sprinkled, or sprayed on; introduced into; or otherwise applied to the human body, or any part of the human body, for cleansing, beautifying, promoting attractiveness, or altering the appearance, and are thus "cosmetics" under California law. CAL. HEALTH & SAFETY CODE § 109900.

30. The California Organic Products Act of 2003 ("COPA") provides that "no product shall be sold as organic pursuant to this article unless it is produced according to regulations promulgated by the NOP, and consists entirely of products manufactured only from raw or processed agricultural products." CAL. HEALTH & SAFETY CODE § 110820. "'Sold as organic' means any use of the terms 'organic,' 'organically grown,' or grammatical variations of those terms, whether orally or in writing, in connection with any product grown, handled, processed, sold, or offered for sale in this state, including, but not limited to, any use of these terms in labeling or advertising of any product and any ingredient in a multi-ingredient product." CAL. HEALTH & SAFETY CODE § 110815(k).

31. Furthermore, under COPA, "Cosmetic products sold, labeled, or represented as organic or made with organic ingredients shall contain, at least 70 percent organically produced ingredients." CAL. HEALTH & SAFETY CODE § 110838(b). "Multi-ingredient cosmetic products sold as organic in California with less than 70 percent organically produced ingredients, by weight

or by fluid volume, excluding water and salt, may only identify the organic content.” CAL. HEALTH & SAFETY CODE § 110839.

32. Defendant’s use of the name “Babyganics” on packaging, labeling, and advertising of the Products—which looks and sounds like the word “organics”—constitutes selling, labeling, and representing the Products as organic under COPA. The Products are thus “sold as organic” pursuant to COPA as they are advertised and labeled as “Babyganics” and sold in California.

B. Defendant Misrepresents the Ingredients in its Sunscreens.

33. Active ingredients in sunscreens come in two forms, physical barriers and chemical filters. Chemical filters are absorbed into the skin and absorb UVA and UVB rays. Physical barriers, usually minerals Zinc Oxide or Titanium Dioxide, are not absorbed into the skin and instead create a physical barrier between the skin and UVA and UVB rays.

34. Throughout the Class Period Defendant has continually advertised and marketed the following sunscreens as “mineral-based”:

Mineral-Based Sunscreen Lotion



Mineral-Based Sunscreen Spray



35. The “mineral-based” lotion lists the following active ingredients on the back of its packaging: Octisalate (5.0%), Titanium Dioxide (3.0%), and Zinc Oxide (6.0%). Likewise, the “mineral-based” spray lists the following active ingredients on the back of its packaging: Zinc Oxide (11.2%), Octinoxate (7.5%), Octisalate (5.0%). Both Octinoxate and Octisalate are chemical compounds. Defendant’s labeling of these sunscreens as “mineral-based” is therefore false, misleading, deceptive, fraudulent, and unfair.

36. Defendant’s labeling of the Products as “mineral-based” unequivocally demonstrates its intent to persuade consumers that all active ingredients in the Products are mineral-based. However, Defendant’s “mineral-based” sunscreens’ active ingredients include Octinoxate and Octisalate, both of which are non-mineral, chemical compounds.

37. Defendant is well aware of consumers’ concerns regarding chemical sunscreens. It has a close relationship with the Environmental Working Group (“EWG”), with whom it founded a “sun safety coalition.” Through this coalition, EWG promotes the theory that physical sunscreens are safer than chemical sunscreens. According to EWG, “Two European studies have detected sunscreen chemicals [including Octinoxate] in mothers’ milk, indicating that the developing fetus and newborns may be exposed to these substances.”¹ EWG lists Octinoxate as a UV filter with “higher toxicity concerns” and a potential endocrine disruptor and known skin allergen. Octisalate is listed as a “moderate toxicity” concern by EWG.

38. As part of this lobbying effort, EWG publishes an annual Guide to Sunscreens with ratings of hundreds of different sunscreens. It consistently rates mineral sunscreens higher than chemical sunscreens, based in large part on the idea that the mineral sunscreens are safer. Notably,

¹ Environmental Working Group, *The Trouble With Sunscreen Chemicals* (last visited Oct. 13, 2015), available at: <http://www.ewg.org/2015sunscreen/report/the-trouble-with-sunscreen-chemicals/>.

EWG gives a high rating to Defendant's "mineral-based" sunscreen, even higher than Defendant's actual mineral sunscreen which is labeled as "Pure."

39. Defendant saves considerable resources during the manufacturing process when using chemical sunscreens. Octinoxate and Octisalate cost less than Titanium Dioxide (which has been the subject of several price fixing lawsuits in recent years) and Zinc Oxide.

40. Defendant knew or reasonably should have known that its representations regarding its sunscreens' ingredients are false, deceptive, misleading, and unlawful under California and New York laws. In fact, Defendant has received numerous consumer complaints about its labeling on Amazon.com:

Not true mineral sunscreen - buyer beware

Bymamaggleon August 7, 2014

This is not a chemical free sunblock! I purchased this as it is described as 'mineral based.' Technically it is mineral based because it contains zinc oxide, but the other 2 active ingredients are chemicals which most people looking for mineral sunblock are attempting to avoid. Buyer be aware that the active ingredients lists Octinoxate 7.5% and Octisalate 5.0% (in addition to the zinc oxide) True mineral based sunscreen should have the active ingredients of zinc oxide and/or titanium oxide and that's all. More info here for those who are interested: <http://www.ewg.org/2014sunscreen/the-trouble-with-sunscreen-chemicals/>

The product packaging is misleading

Misleading name of product and off-putting smell

ByAlison Hayward "emergentologist"on July 25, 2015

Size: 6 Ounce (Pack of 2)Style Name: SPF 50Verified Purchase

Foolishly I didn't read the reviews and didn't realize that something advertised as mineral sunscreen might also have chemical ingredients in it. Obviously I'm purchasing mineral sunscreen because I don't want chemical sunscreen, so I regret this purchase. Also, I would recommend trying a sample of this somehow before purchasing this quantity... it smells really off-putting to me, strongly like fake flowers.

Pretty annoyed that I bought this "mineral based sunscreen" only ...

Byafrodeityon September 18, 2014

Size: 6 Ounce (Pack of 2)Package Type: Frustration-Free PackagingVerified Purchase

Pretty annoyed that I bought this "mineral based sunscreen" only to receive it, start using it and realize that 2 of the three active ingredients are chemical sunscreens, i.e. Octinoxate (7.5%) and Octisalate (5.0%). There is also zinc oxide (11.7%), but that is beside the point. If you want a physical sunscreen, which is what I was looking for, DO NOT BUY THIS. Chemical sunscreens actually are designed to absorb into the skin and can disrupt your hormonal balance, amongst other things. I would not want to expose my babies to that risk. The product info is very misleading.

41. Reasonable consumers, including Plaintiffs Mayhew and Alibhai, purchased the sunscreen Products based upon their belief they were mineral-based. However, a reasonable consumer would not deem the Products to be mineral-based if he or she knew the active ingredients included chemical sunscreens.

42. Hence, Defendant's claims that the Sunscreens are mineral-based are false and misleading.

43. Defendant's labeling is effective. Its "mineral-based" sunscreen lotion is the "#1 Best Seller in Baby Sun Protection" on Amazon.com.

44. In fact, Plaintiffs Mayhew and Alibhai and members of the Sunscreen Class suffered an ascertainable loss in at least the following amounts, in that they paid a premium for Defendant's Sunscreens over comparable products that are not marketed as mineral or organic:²

- a. Babyganics Mineral-Based Sunscreen Spray - \$2.32 per ounce
- b. Coppertone Water Babies Sunscreen Spray - \$1.76 per ounce
- c. Babyganics Mineral-Based Sunscreen Lotion - \$2.24 per ounce
- d. Coppertone Water Babies Sunscreen Lotion - \$1.34 per ounce

RULE 9(B) ALLEGATIONS

45. Federal Rule of Civil Procedure ("Rule") 9(b) provides that "[i]n alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake." Fed.

² Based on prices listed on Diapers.com.

R. Civ. P. 9(b). As detailed in the paragraphs above, Plaintiff has satisfied the requirements of Rule 9(b) by establishing the following elements with sufficient particularity:

46. WHO: Defendant made material misrepresentations to Plaintiffs and the Class and failed to adequately disclose material facts as detailed herein. Except as identified herein, Plaintiffs are unaware, and therefore unable to identify, the true names and identities of those individuals at Defendant who are responsible for such material misrepresentations and omissions.

47. WHAT: Defendant made material misrepresentations regarding the mineral-based and organic quality of the Products. Specifically, Defendant misrepresented the sunscreen Products are “mineral-based.” Also, Defendant misrepresented the Products are organic by using the trade name “Babyganics.” These representations are false and misleading because the Products contain, among other things, Octinoxate, Octisalate, Arachidyl Glucoside, Butylene Glycol, Ethylhexylglycerin, Glycerin, Hydroxyethyl Acrylate/Sodium, Acryloyldimethyltaurate Copolymer, Polyhydroxystearic Acid, Polysorbate 60, in contradiction to Defendant’s claims.

48. WHEN: Defendant made the material misrepresentations, omissions, and non-disclosures detailed herein continuously at every point of purchase and consumption throughout the Class Period. Specifically, Plaintiff Alibhai purchased the purchased the Sunscreen on or about 2012 and other Products on or about 2013 and Plaintiff Mayhew purchased the Sunscreen and Shampoo & Body Wash on or about 2015.

49. WHERE: Defendant’s material misrepresentations, omissions, and non-disclosures detailed herein were made, *inter alia*, on the packaging of the Products. Plaintiff Alibhai purchased the Sunscreen and other Products at ToysRUs in California and Plaintiff Mayhew purchased the Sunscreens and Shampoo & Body Wash at Target in New York.

50. HOW: Defendant made numerous written material misrepresentations on the packaging of the Products which were designed to, and, in fact, did, mislead Plaintiffs and the Class into purchasing the Products.

51. WHY: Defendant engaged in the material misrepresentations, omissions, and non-disclosures detailed herein for the express purpose of inducing Plaintiff and other reasonable consumers to purchase and/or pay a premium for the Products based on the belief the Products are mineral-based and/or organic. Defendant profited by selling the Products to thousands of unsuspecting consumers.

CLASS ALLEGATIONS

52. Plaintiffs bring this matter on behalf of themselves and those similarly situated. As detailed at length in this Complaint, Defendant orchestrated deceptive marketing and labeling practices. Defendant's customers were uniformly impacted by and exposed to this misconduct. Accordingly, this Complaint is uniquely situated for class-wide resolution, including injunctive relief.

53. The Class is defined as all consumers who purchased the Products anywhere in the United States during the Class Period (the "Class").

54. Plaintiffs also seek certification, to the extent necessary or appropriate, of a subclass of individuals who purchased the Products in the State of New York at any time during the Class Period (the "New York Subclass") and of a subclass of individuals who purchased the Products in the State of California at any time during the Class Period (the "California Subclass").

55. Additionally, Plaintiff Alibhai brings this action on behalf of the following subclass: All persons who, during the Class Period, purchased any of Defendant's sunscreen labeled as mineral-based in California ("the "Sunscreen Subclass").

56. The Class, the New York Subclass, the California Subclass, and the Sunscreen Subclass shall be referred to collectively throughout the Complaint as the Class.

57. The Class is properly brought and should be maintained as a class action under Rule 23(a), satisfying the class action prerequisites of numerosity, commonality, typicality, and adequacy because:

58. Numerosity: Class Members are so numerous that joinder of all members is impracticable. Plaintiffs believe that there are thousands of consumers who are Class Members who have been damaged by Defendant's deceptive and misleading practices.

59. Commonality: The questions of law and fact common to the Class Members which predominate over any questions which may affect individual Class Members include, but are not limited to:

- a. Whether Defendant engaged in fraudulent, unfair, unlawful, or deceptive business practices by falsely representing the ingredients in its Sunscreens;
- b. Whether Defendant engaged in fraudulent, unfair, unlawful, or deceptive business practices by representing that its Products are organic;
- c. Whether Plaintiff and the Class are entitled to equitable and/or injunctive relief;
- d. Whether Defendant's fraudulent unlawful, unfair, and deceptive practices harmed Plaintiff and the Class; and
- e. Whether Defendant was unjustly enriched by its deceptive practices.

60. Typicality: Plaintiffs are members of the Class. Plaintiffs' claims are typical of the claims of each Class Member in that every member of the Class was susceptible to the same deceptive, misleading conduct and purchased the Defendant's Products. Plaintiffs are entitled to relief under the same causes of action as the other Class Members.

61. Adequacy: Plaintiffs are adequate Class representatives because their interests do not conflict with the interests of the Class Members they seek to represent; their consumer fraud

claims are common to all members of the Class, and they have a strong interest in vindicating their rights; and they have retained counsel competent and experienced in complex class action litigation, and they intend to vigorously prosecute this action. Plaintiffs have no interests which conflict with those of the Class. The Class Members' interests will be fairly and adequately protected by Plaintiffs and their counsel. Defendant has acted in a manner generally applicable to the Class, making relief appropriate with respect to Plaintiffs and the Class Members. The prosecution of separate actions by individual Class Members would create a risk of inconsistent and varying adjudications.

62. The Class is properly brought and should be maintained as a class action under Rule 23(b) because a class action is superior to traditional litigation of this controversy. Pursuant to Rule 23(b)(3), common issues of law and fact predominate over any other questions affecting only individual members of the Class. The Class issues fully predominate over any individual issue because no inquiry into individual conduct is necessary; all that is required is a narrow focus on Defendant's deceptive and misleading marketing and labeling practices. In addition, this Class is superior to other methods for fair and efficient adjudication of this controversy because, *inter alia*:

63. Superiority: A class action is superior to the other available methods for the fair and efficient adjudication of this controversy because:

- a. The joinder of thousands of individual Class Members is impracticable, cumbersome, unduly burdensome, and a waste of judicial and litigation resources;
- b. The individual claims of the Class Members may be relatively modest compared with the expense of litigating the claim, thereby making it impracticable, unduly burdensome, and expensive—if not totally impossible—to justify individual actions;
- c. When Defendant's liability has been adjudicated, all Class Members' claims can be determined by the Court and administered efficiently in a manner far less burdensome and expensive than if it were attempted through filing, discovery, and trial of all individual cases;

- d. This class action will promote orderly, efficient, expeditious, and appropriate adjudication and administration of Class claims;
- e. Plaintiffs know of no difficulty to be encountered in the management of this action that would preclude its maintenance as a class action;
- f. This class action will assure uniformity of decisions among Class Members;
- g. The Class is readily definable and prosecution of this action as a class action will eliminate the possibility of repetitious litigation;
- h. Class Members' interests in individually controlling the prosecution of separate actions is outweighed by their interest in efficient resolution by a single class action; and
- i. It would be desirable to concentrate in this single venue the litigation of all Class Members who were induced by Defendant's uniform false advertising to purchase its products as being "Organic."

64. Accordingly, this Class is properly brought and should be maintained as a class action under Rule 23(b)(3) because questions of law or fact common to Class Members predominate over any questions affecting only individual members and because a class action is superior to other available methods for fairly and efficiently adjudicating this controversy.

INJUNCTIVE CLASS RELIEF

65. Rules 23(b)(1) and (2) contemplate a class action for purposes of seeking class-wide injunctive relief. Here, Defendant has engaged in conduct resulting in misleading consumers about ingredients in its Products. Since Defendant's conduct has been uniformly directed at all consumers in the United States, and the conduct continues presently, injunctive relief on a class-wide basis is a viable and suitable solution to remedy Defendant's continuing misconduct. Plaintiffs would purchase the Products again if the ingredients were changed so that they were indeed "Organic" as represented by Defendant.

66. The injunctive Class is properly brought and should be maintained as a class action under Rule 23(a), satisfying the class action prerequisites of numerosity, commonality, typicality, and adequacy because:

- a. Numerosity: Individual joinder of the injunctive Class Members would be wholly impracticable. Defendant's Products have been purchased by thousands of people throughout the United States;
- b. Commonality: Questions of law and fact are common to members of the Class. Defendant's misconduct was uniformly directed at all consumers. Thus, all Class Members have a common cause against Defendant to stop its misleading conduct through an injunction. Since the issues presented by this injunctive Class deal exclusively with Defendant's misconduct, resolution of these questions would necessarily be common to the entire Class. Moreover, there are common questions of law and fact inherent in the resolution of the proposed injunctive class, including, *inter alia*:
 - i. Resolution of the issues presented in the 23(b)(3) class;
 - ii. Whether Class Members will continue to suffer harm by virtue of Defendant's deceptive Products' marketing and labeling; and
 - iii. Whether, on equitable grounds, Defendant should be prevented from continuing to deceptively mislabel its Products as being "Organic."
- c. Typicality: Plaintiffs' claims are typical of the claims of the injunctive Class because their claims arise from the same course of conduct (i.e. Defendant's deceptive and misleading marketing, labeling, and advertising practices). Plaintiffs are typical representatives of the Class because, like all members of the injunctive Class, they purchased Defendant's Products which were sold unfairly and deceptively to consumers throughout the United States.
- d. Adequacy: Plaintiffs will fairly and adequately represent and protect the interests of the injunctive Class. Their consumer protection claims are common to all members of the injunctive Class and they have strong interests in vindicating their rights. In addition, Plaintiffs and the Class are represented by counsel who are competent and experienced in both consumer protection and class action litigation.

67. The injunctive Class is properly brought and should be maintained as a class action under Rule 23(b)(2) because Plaintiffs seek injunctive relief on behalf of the Class Members on grounds generally applicable to the entire injunctive Class. Certification under Rule 23(b)(2) is appropriate because Defendant has acted or refused to act in a manner that applies generally to the injunctive Class (i.e. Defendant has marketed its Products using the same misleading and deceptive labeling to all of the Class Members). Any final injunctive relief or declaratory relief would benefit the entire injunctive Class as Defendant would be prevented from continuing its misleading and

deceptive marketing practices and would be required to honestly disclose to consumers the nature of the contents of its Products. Plaintiffs would purchase the Products again if the ingredients were changed so that they were indeed “organic” as represented by Defendants.

FIRST CAUSE OF ACTION
VIOLATION OF NEW YORK GBL § 349

(On Behalf of Plaintiff Mayhew and All Class and/or New York Subclass Members)

68. Plaintiff Mayhew repeats and realleges each and every allegation contained in all the foregoing paragraphs as if fully set forth herein.

69. New York General Business Law Section 349 (“GBL § 349”) declares unlawful “[d]eceptive acts or practices in the conduct of any business, trade, or commerce or in the furnishing of any service in this state.”

70. The conduct of Defendant alleged herein constitutes recurring, “unlawful” deceptive acts and practices in violation of GBL § 349, and as such, Plaintiff Mayhew and the Class and/or New York Subclass Members seek monetary damages and the entry of preliminary and permanent injunctive relief against Defendant, enjoining it from inaccurately describing, labeling, marketing, and promoting the Products.

71. There is no adequate remedy at law.

72. Defendant misleadingly, inaccurately, and deceptively presents its Products to consumers.

73. Defendant’s improper consumer-oriented conduct—including labeling and advertising the Products as being “organic” and “mineral-based”—is misleading in a material way in that it, *inter alia*, induced Plaintiff Mayhew and Class and/or New York Subclass Members to purchase and pay a premium for Defendant’s Products and to use the Products when they otherwise would not have. Defendant made its untrue and/or misleading statements and representations willfully, wantonly, and with reckless disregard for the truth.

74. Plaintiff Mayhew and the Class and/or New York Subclass Members have been injured inasmuch as they paid a premium for products that are—contrary to Defendant's representations—not “Organic.” Accordingly, Plaintiff Mayhew and the Class and/or New York Subclass Members received less than what they bargained and/or paid for.

75. Defendant's advertising and Products' packaging and labeling induced Plaintiff Mayhew and the Class and/or New York Subclass Members to buy Defendant's Products and to pay a premium price for it.

76. Defendant's deceptive and misleading practices constitute a deceptive act and practice in the conduct of business in violation of New York General Business Law §349(a) and Plaintiff Mayhew and the Class have been damaged thereby.

77. As a result of Defendant's recurring, “unlawful” deceptive acts and practices, Plaintiff Mayhew and the Class and/or New York Subclass Members are entitled to monetary, compensatory, treble, and punitive damages; injunctive relief, restitution, and disgorgement of all moneys obtained by means of Defendant's unlawful conduct; and interest, attorneys' fees, and costs.

SECOND CAUSE OF ACTION
VIOLATION OF NEW YORK GBL § 350

(On Behalf of Plaintiff Mayhew and All Class and/or New York Subclass Members)

78. Plaintiff Mayhew repeats and realleges each and every allegation contained in all the foregoing paragraphs as if fully set forth herein.

79. N.Y. Gen. Bus. Law § 350 provides, in part, as follows:

False advertising in the conduct of any business, trade or commerce or in the furnishing of any service in this state is hereby declared unlawful.

80. N.Y. Gen. Bus. Law § 350a(1) provides, in part, as follows:

The term ‘false advertising, including labeling, of a commodity, or of the kind, character, terms or conditions of any employment opportunity if such advertising

is misleading in a material respect. In determining whether any advertising is misleading, there shall be taken into account (among other things) not only representations made by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertising fails to reveal facts material in the light of such representations with respect to the commodity or employment to which the advertising relates under the conditions proscribed in said advertisement, or under such conditions as are customary or usual . . .

81. Defendant's labeling and advertisements contain untrue and materially misleading statements concerning Defendant's Products inasmuch as it misrepresented that the Products are "Organic."

82. Plaintiff Mayhew and the Class and/or New York Subclass Members have been injured inasmuch as they relied upon the labeling, packaging, and advertising and paid a premium for the Products which are—contrary to Defendant's representations—not "Organic." Accordingly, Plaintiff Mayhew and the Class and/or New York Subclass Members received less than what they bargained and/or paid for.

83. Defendant's advertising, packaging, and products' labeling induced Plaintiff Mayhew and the Class and/or New York Subclass Members to buy Defendant's Products.

84. Defendant made its untrue and/or misleading statements and representations willfully, wantonly, and with reckless disregard for the truth.

85. Defendant's conduct constitutes multiple, separate violations of N.Y. Gen. Bus. Law § 350.

86. Defendant made the material misrepresentations described in this Complaint in Defendant's advertising and on the Products' packaging and labeling.

87. Defendant's material misrepresentations were substantially uniform in content, presentation, and impact upon consumers at large. Moreover, all consumers purchasing the Products were and continue to be exposed to Defendant's material misrepresentations.

88. As a result of Defendant's recurring, "unlawful" deceptive acts and practices, Plaintiff Mayhew and the Class and/or New York Subclass Members are entitled to monetary, compensatory, treble and punitive damages; injunctive relief, restitution, and disgorgement of all moneys obtained by means of Defendant's unlawful conduct; and interest, attorneys' fees, and costs.

THIRD CAUSE OF ACTION
VIOLATION OF "UNLAWFUL" PRONG OF THE UCL
(On Behalf of Plaintiff Alibhai and the California and Sunscreen Subclass Members)

89. Plaintiff Alibhai repeats and re-alleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

90. California's Unfair Competition Law ("UCL") prohibits any "unlawful, unfair, or fraudulent" business practice. Cal Bus. & Prof. Code § 17200. Defendant's labeling of its "mineral-based" sunscreens is "unlawful," "unfair," and "fraudulent."

91. A business practice is "unlawful" under the UCL if it violates any other law or regulation.

92. Defendant's use of the label "Babyganics" is a violation of COPA.

93. As a result of the conduct described above, Defendant has been, and will continue to be, unjustly enriched at the expense of Plaintiff Alibhai and the Class and/or California and Sunscreen Subclass Members. Specifically, Defendant has been enriched by obtaining revenues and profits it would not otherwise have obtained absent its false, misleading, and deceptive practices.

94. Plaintiff Alibhai seeks to enjoin further unlawful, unfair, and/or fraudulent acts or practices by Defendant, to obtain restitutionary disgorgement of all monies and revenues generated as a result of such practices, and all other relief allowed under California Business & Professions Code § 17200.

FOURTH CAUSE OF ACTION
VIOLATION OF “UNFAIR” PRONG OF THE UCL
(On Behalf of Plaintiff Alibhai and the California and Sunscreen Subclass Members)

95. Plaintiff Alibhai repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

96. California’s UCL prohibits any “unlawful, unfair, or fraudulent” business practice. Cal. Bus. & Prof. Code § 17200. Defendant’s labeling is “unlawful,” “unfair,” and “fraudulent.”

97. A business practice is “unfair” under the UCL if the gravity of the harm to the victim outweighs the utility of the defendant’s conduct.

98. Defendant has violated, and continues to violate, the “unfair” prong of the UCL by luring consumers into buying its Products by using the name “Babyganics” and “mineral-based” labels discussed herein.

99. The gravity of the harm to Plaintiff Alibhai and the other California and Sunscreen Subclass Members resulting from these unfair acts and practices outweighs any conceivable utility of Defendant’s conduct.

100. As a result of the conduct described above, Defendant has been, and will continue to be, unjustly enriched at the expense of Plaintiff Alibhai and the other California and Sunscreen Subclass Members. Specifically, Defendant has been enriched by obtaining revenues and profits it would not otherwise have obtained absent its false, misleading, and deceptive practices.

101. Plaintiff Alibhai seeks to enjoin further unlawful, unfair, and/or fraudulent acts or practices by Defendant, to obtain restitutionary disgorgement of all monies and revenues generated as a result of such practices, and all other relief allowed under California Business & Professions Code § 17200.

SIXTH CAUSE OF ACTION
VIOLATION OF “FRAUDULENT” PRONG OF THE UCL
(On Behalf of Plaintiff Alibhai and the California and Sunscreen Subclass Members)

102. Plaintiff Alibhai repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

103. California’s UCL prohibits any “unlawful, unfair, or fraudulent” business practice. Cal. Bus. & Prof. Code § 17200. Defendant’s labeling is “unlawful,” “unfair,” and “fraudulent.”

104. A fraudulent business practice is one in which members of the public are likely to be deceived.

105. Defendant has violated, and continues to violate, the “fraudulent” prong of the UCL by deceiving customers in buying their Products with deceptive labeling.

106. As a result of the conduct described above, Defendant has been, and will continue to be, unjustly enriched at the expense of Plaintiff Alibhai and the other California and Sunscreen Subclass Members. Specifically, Defendant has been unjustly enriched by obtaining revenues and profits it would not otherwise have obtained absent its false, misleading, and deceptive practices.

107. Plaintiff Alibhai seeks to enjoin further unlawful, unfair, and fraudulent acts or practices by Defendant, to obtain restitutionary disgorgement of all monies and revenues generated as a result of such practices, and all other relief allowed under California Business & Professions Code § 17200.

SEVENTH CAUSE OF ACTION
VIOLATION OF THE CONSUMER LEGAL REMEDIES ACT
(On Behalf of Plaintiff Alibhai and the California and Sunscreen Class Members)

108. Plaintiff Alibhai repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

109. This cause of action is brought under the Consumer Legal Remedies Act, California Civil Code §§ 1750 *et seq.*

110. Plaintiff Alibhai, as well as each member of the California Class, constitute a “consumer” within the meaning of Civil Code § 1761(d).

111. Defendant’s representations to Plaintiff Alibhai and the other California and Sunscreen Subclass Members that the Products they were receiving were “mineral-based” and/or organic violated (1) Civil Code § 1770(a)(5), which prohibits “[r]epresenting that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or qualities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he or she does not have” and (2) Civil Code § 1770(a)(7), which prohibits “[r]epresenting that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.”

112. Under Civil Code § 1780(a)(2), Plaintiff Alibhai, on behalf of herself and the California and Sunscreen Subclasses, requests that this Court enjoin Defendant from continuing to engage in these unlawful and deceptive practices.

113. CLRA SECTION 1782 NOTICE. On December 21, 2015, a CLRA demand letter was sent to Defendant that provided notice of Defendant’s violation of the CLRA and demanded Defendant correct, repair, replace, or otherwise rectify the unlawful, unfair, false, and/or deceptive practices complained of herein. The letter also stated that, if Defendant refused to do so, a complaint would be filed seeking damages in accordance with the CLRA. Defendant failed to comply with the letter. Accordingly, pursuant to California Civil Code Section 1780(a)(3), Plaintiff, on behalf of herself and all other California and Sunscreen Subclass Members, seeks compensatory damages, punitive damages, and restitution of any ill-gotten gains due to Defendant’s acts and practices.

114. Pursuant to California Civil Code sections 1780 and 1782, Plaintiff and the California and Sunscreen Subclass Members seek damages in an amount to be proven at trial, an injunction to bar Defendant from continuing its deceptive advertising practices, and reasonable attorneys' fees and costs.

EIGHTH CAUSE OF ACTION
VIOLATION OF THE FAIR ADVERTISING LAW
(On Behalf of Plaintiff Alibhai and the California and Sunscreen Subclass Members)

115. Plaintiff Alibhai repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

116. This cause of action is brought under California's Fair Advertising Law, California Business & Professions Code §§ 17500 et seq. ("FAL").

117. The FAL prohibits the dissemination of any advertising which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading. Cal. Bus. & Prof. Code § 17500.

118. Defendant used, and continues to use, labeling—including the terms "Babyganics" and/or "mineral-based"—that is untrue and misleading. This labeling is unfair, deceptive, and misleading within the meaning of California Business & Professions Code §§ 17500 et seq.

119. Defendant knew or should have known that its labeling was and is misleading or likely to mislead for the reasons set forth above.

120. Plaintiff Alibhai suffered injury in fact and a loss of money or property as a result of Defendant's acts and practices, which violate California Business & Professions Code §§ 17500 *et seq.*

NINTH CAUSE OF ACTION
COMMON LAW UNJUST ENRICHMENT
(On Behalf of Plaintiffs and All Class Members in the Alternative)

121. Plaintiffs repeat and reallege each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

122. Plaintiffs, on behalf of themselves and consumers nationwide, bring a common law claim for unjust enrichment.

123. Defendant's conduct violated, inter alia, state and federal law by manufacturing, advertising, marketing, and selling its Products while misrepresenting and omitting material facts.

124. Defendant's unlawful conduct as described in this Complaint allowed Defendant to knowingly realize substantial revenues from selling its Products at the expense of, and to the detriment or impoverishment of, Plaintiffs and Class Members, and to Defendant's benefit and enrichment. Defendant has thereby violated fundamental principles of justice, equity, and good conscience.

125. Plaintiffs and Class Members conferred significant financial benefits and paid substantial compensation to Defendant for the Products, which was not as Defendant represented them to be.

126. Under New York's common law principles of unjust enrichment, it is inequitable for Defendant to retain the benefits conferred by Plaintiffs' and Class Members' overpayments.

127. Plaintiffs and Class Members seek disgorgement of all profits resulting from such overpayments and establishment of a constructive trust from which Plaintiffs and Class Members may seek restitution.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues so properly triable thereby.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and the Class, pray for judgment as follows:

- A. For an order certifying this case as a class action and appointing Plaintiffs and Plaintiffs' counsel to represent the Class;
- B. For an order awarding, as appropriate, damages, restitution, or disgorgement to Plaintiffs and the Class, including all monetary relief to which Plaintiffs and the Class are entitled under applicable law;
- C. For an order requiring Defendant to immediately cease and desist from all fraudulent, deceptive, unlawful, and illegal conduct outlined above;
- D. For all equitable remedies available as a result of the fact that the sale of a misbranded product is an illegal contract that is void under applicable law;
- E. For an order awarding attorneys' fees and costs;
- F. For an order awarding punitive damages;
- G. For an order awarding pre-judgment and post-judgment interest; and
- H. For an order providing such further relief as this Court deems just and proper.

Dated: September 7, 2016

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/s/ Jason P. Sultzer

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